IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

WP(C).No. 19795 of 2007(F)

AGAINST THE ORDER IN EP. 88 /2003 IN OS.500/1999 of ADDL.MUNSIFF COURT,NEDUMANGAD
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PETITIONER:

MAHEEN, S/O.BASHEER, AL-AMEEN,
MUKKOLACKAL, KARIPPORA VILLAGE.

BY ADV. SRI.T.A.UNNIKRISHNAN
SRI.K.SATHEESH KUMAR

RESPONDENT:

R.S.MANI, S/O.RAGHAVAN,
VIJI BHAVAN, THEKKUMKARA,
MANCHA, NEDUMANGAD.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 19795 OF 2007

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Dated this the 29th day of June, 2007.

J U D G M E N T

This writ petition is filed seeking to quash the order passed by the Additional Munsiff, Nedumangad in E.A.199/06 in E.P.88/03 in O.S.500/99. The writ petitioner seeks setting aside the sale under Order 21 Rule 90 CPC on the ground of irregularity and fraud.

2. I have gone through the entire file and the present petitioner has purchased the property when attachment was in subsistence. A perusal of the order of the Court below would reveal that the attachment was effected on 22/7/99 and the property was purchased only on 11/11/99. When there is a private sale it will be hit by Section 64 of the CPC and also void as against the person who had obtained the attachment. Therefore, so far as the decree holder is concerned in this case he need not have to look into the document of title produced by the party at all. Therefore, he has no locus stande to challenge the sale. With both the eyes open he had purchased the property which was

attached by the Court and therefore the order passed by the Court below is perfectly legal and does not call for any interference and therefore it is dismissed.

M.N. KRISHNAN, JUDGE.

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